

Barristers & Solicitors

WeirFouldsLLP

August 5, 2015

Denise Baker
Partner
T: 905-829-8600
dbaker@weirfoulds.com

File 17207.00001

Office of the City Clerk
The City of Hamilton
Hamilton City Hall
71 Main Street West
1st floor
Hamilton, ON
L8P 4Y5

Attention: Rose Caterini, City Clerk

Dear Ms Caterini:

Re: Notice of Appeal – City of Hamilton Rural Zoning By-law No. 15-173
57 Concession 12 Road East, Freelon, Ontario
Fern Brook Resort Inc.

We are the solicitors for Fern Brook Resort Inc., the owner and operator of the Fern Brook Resort located at 57 Concession 12 Road East, Freelon, Ontario (the "Property").

On July 10, 2015 we filed a letter to the Office of the City Clerk outlining our client's concerns with the draft version of the Hamilton Rural Zoning By-law, found in Appendix B to Report PED13167(c). Of particular concern is that the Holding provisions applicable to Special Exception No. 248 do not reflect the existing development of the site.

Further, our client's Planning Consultant, Ruth Victor and Associates, also submitted letters to the City on our client's behalf dated December 4, 2014, April 8, 2015, and May 11, 2015, identifying concerns with the Rural Zoning By-law. Copies of these letters are enclosed for your reference.

On July 10, 2015 City of Hamilton Council passed Zoning By-law No. 15-173. The By-law does not address our client's concerns as identified in our previously filed letters, which form the basis of this appeal of the Zoning By-law.

Please find enclosed copies of the filed letters; a complete OMB Appellant Form (A1); and a cheque in the amount of \$125.00, being the filing fee to Appeal the Zoning By-law to Ontario Municipal Board.

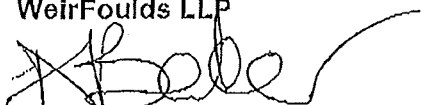
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Should you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

WeirFoulds LLP

A handwritten signature in black ink, appearing to read "Denise Baker", with a long, sweeping flourish extending to the right.

Denise Baker

DB

Encls.

cc Client

8384989.1



Environment and Land Tribunals Ontario
Ontario Municipal Board
 866 Bay Street, Suite 1500 Toronto, Ontario M5G 1E6
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	63(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input checked="" type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

57 Concession 12 Road East, Freelon
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Regional Municipality of Hamilton-Wentworth

Part 3: Appellant Information

First Name: _____ Last Name: _____

Fern Brook Resort Inc.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: _____
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Denise Last Name: Baker

Company Name: WeirFoulds LLP

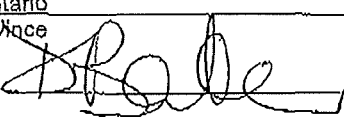
Professional Title: Barrister & Solicitor

E-mail Address: dbaker@weirfoulds.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905.829.8600 Alternate Telephone #: _____

Fax #: 905.829.2035

Mailing Address: 1525 Cornwall Road Suite 10 Oakville
Street Address Apt/Suite/Unit# City/Town
Ontario L6J 0B2
Province Country (if not Canada) Postal Code

Signature of Appellant:  Date: Aug - 5/15

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)
Zoning By-law 15-173

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)
Please see attached covering letter.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality?

YES NO

Are there other planning matters related to this appeal?

YES NO

(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

Part 8: Scheduling Information

